

Rubin et al.
Application No.: 09/010,377
Page 2

PATENT

application is different from the models discussed in the cited art; (ii) the animal models discussed in the cited art are not predictive of the efficacy of anti-VLA-4 agents in viral encephalitis in the absence of multiple sclerosis; and (iii) the animal model of the subject application is predictive that agents to VLA4 are useful in treating simple viral encephalitis.

Specifically, Professor Karlik pointed out that the animal models discussed in the cited references address effects of anti- α 4-integrin in inhibiting inflammation due to EAE, which is a syndrome simulating multiple sclerosis. Professor Karlik noted that multiple sclerosis is an autoimmune disease and that inflammation present in EAE models results primarily, if not exclusively, from nonviral sources. Professor Karlik further noted that viral inflammation could not have been addressed in the EAE model of Bendig et al., and that results from EAE models do not directly address the ability of antibodies to α -4 integrin to treat inflammation that is due exclusively to viral infection.

Professor Karlik also pointed out that the present invention differs from the cited art because the present inventors employed an animal model in which inflammation is solely the result of viral infection. Noting the preventive or ameliorative effects of anti- α 4-integrin in viral encephalitis in rats as described in the present invention, Professor Karlik stated that these results indicate that treatment with antibodies to α 4-integrin is effective in suppressing the harmful effects of virally-induced inflammation without significantly suppressing the beneficial effects that keep viral replication in check. Professor Karlik went on to conclude that in his opinion such beneficial effects would not have been reasonably predictable from the animal models discussed in the references cited by the Examiner.

It is submitted that Professor's stature as an expert in the field merits appropriate deference. "Office personnel must accept an opinion from a qualified expert that is based upon relevant facts whose accuracy is not being questioned; it is improper to disregard the opinion solely because of a disagreement over the significance or meaning of the facts offered." Guidelines for Examination of Applications for Compliance with the Utility Requirement at §B4. Appropriate deference by an Examiner to the opinion of an expert is also emphasized by In re Soni which holds that the opinion of an expert must be accepted "in the absence of evidence to the contrary." 34 USPQ2d 1684, 1688 (Fed. Cir. 1995).

Rubin et al.
Application No.: 09/010,377
Page 3

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400 x 5209.

Respectfully submitted,



Hugh Wang
Reg. No. 47,163

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Telephone: (650) 326-2400
Facsimile: (650) 326-2422
PA 3186701 v1